

(1) Mechanically mutilated at the packing shed rendering them unsuitable for fresh market;

(2) Handled for special purpose outlets approved under § 959.53 of this part; or

(3) Handled for canning or freezing.

(b) As a safeguard against culls entering fresh market channels each handler of culls under paragraphs (a) (2) or (3) of this section shall apply for and obtain a certificate from the committee which shall require the handler to furnish such reports or other information as the committee may request.

[28 FR 60, Jan. 3, 1963]

Subpart—Assessment Rates

§ 959.237 Assessment rate.

On and after August 1, 1997, an assessment rate of \$0.05 per 50-pound container or equivalent is established for South Texas onions.

[62 FR 918, Jan 7, 1997, as amended at 62 FR 67696, Dec. 31, 1997]

Subpart—Handling Regulations

§ 959.322 Handling regulation.

During the period beginning March 1 and ending June 4, no handler shall handle any onions unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. In addition, no handler may package or load onions on Sunday during the period March 1 through May 20, except during the period April 20, 1997, through May 20, 1997.

(a) *Grade requirements.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.* (1) “Small”—1 to 2¼ inches in diameter, and limited to whites only;

(2) “Repacker”—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) “Medium”—2 to 3½ inches in diameter; or

(4) “Jumbo” or “Large”—3 inches or larger in diameter; or

(5) “Colossal”—3¾ inches or larger in diameter.

(6) Tolerances for size in the U.S. onion standards shall apply except that for “repacker” and “medium” sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f) of this section, only the following containers shall be used:

(1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with inside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with inside dimensions not larger than 33 inches by 39½ inches.

(3) 2-pound, 3-pound, 5-pound and 10-pound bags. The average gross weight per lot of onions packed in master container shall not exceed 115 percent of the designated net contents.

(4) 20-pound cartons with approximate dimensions of 22 ¼ inches (length) x 11 inches (width) x 4½ inches (height); or

(5) 25-pound cartons with approximate dimensions of 19⅞ inches (length) x 11½ inches (width) x 7 inches (height); or

(6) 40-pound cartons, with an average net weight in any lot of not more than 45 pounds per carton; or

(7) 50-pound cartons, with an average net weight in any lot of not more than 55 pounds per carton.

(8) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.* (1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e), (f)(1), or (f)(3)(ii) of this section unless an inspection certificate has been issued by the Texas-Federal Inspection Service covering them and the certificate is valid at the time of shipment. City destinations shall be listed on inspection certificates and release forms.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or the shipment release form furnished by the inspection service identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or shipment release form shall be surrendered upon request to Texas Department of Agriculture personnel designated by the committee.

(3) For purposes of operation under this part, each inspection certificate, shipment release form, or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Handlers shall pay assessment on all assessable onions according to the provisions of § 959.42.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) of this section shall not be applicable to shipments of onions for charity, relief and processing if handled in accordance with paragraph (g) of this section.

(2) *Gift packages.* The handling to any person of gift packages of onions not exceeding 25 pounds per package, individually addressed to such person and not for resale is exempt from the container requirements of paragraph (c) of this section, but shall conform to all assessment requirements of § 959.42 and inspection requirements of paragraph (d) of this section, if such onions were not previously handled by a first handler. All such onions shall meet the grade and size requirements of paragraphs (a) and (b) of this section.

(3) *Peeling, chopping, and slicing.* (i) Upon approval of the committee, on-

ions for peeling, chopping, and slicing may be shipped in bulk bins with inside dimensions of 47 inches x 37½ inches x 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Such shipments shall be exempt from paragraph (c) of this section, but shall be handled in accordance with the safeguard provisions of § 959.54 and shall meet the requirements of paragraphs (a), (b), (d), and (g) of this section.

(4) *Experimental shipments.* (i) Upon approval by the committee, onions may be shipped for experimental purposes exempt from regulations issued pursuant to §§ 959.42, 959.52, and 959.60, provided they are handled in accordance with the safeguard provisions of § 959.54 and paragraph (g) of this section.

(ii) Upon approval of the committee, onions may be shipped for testing in types and sizes of containers other than those specified in paragraphs (c) and (f)(2) of this section, provided that the handling of onions in such experimental containers shall be under the supervision of the committee.

(5) *Export shipments.* (i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided that such handling complies with the procedures and safeguards specified by the committee.

(ii) Following approval, if the handler grades, packages, and ships onions for export on any Sunday, such handler shall on the first weekday following shipment, cease all grading, packaging, and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt from all container requirements of this section.

(6) *Onions failing to meet requirements.* Onions failing to meet the grade, size, and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be

mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, processing, experimental purposes, or peeling, chopping and slicing shall:

(1) Apply to the committee for and obtain a Certificate of Privilege to make such shipments;

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to § 959.80(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

(4) In addition to provisions in the preceding paragraphs, each handler making shipments for processing and peeling, chopping, and slicing shall:

(i) Weigh or cause to be weighed each shipment prior to, or upon arrival at, the processor.

(ii) Attach a copy of the weight ticket to a completed copy of the Report of Special Purpose Onion Shipment and return both promptly to the committee office.

(iii) Make each shipment directly to the processor or the processor's subcontractor and attach a copy of the Report of Special Purpose Onion Shipment.

(iv) Each processor or processor's subcontractor who receives cull onions shall weigh the onions upon receipt, complete the Report of Special Purpose Shipment which accompanies each load and mail it immediately to the committee office.

(v) Each processor who receives cull onions shall make available at its business office at any reasonable time during business hours, copies of all applicable purchase orders, sales contracts, or disposition documents for examination by the Department or by the committee, together with any other information which the committee or the Department may deem necessary to en-

able it to determine the disposition of the onions.

(vi) If a processor employs a subcontractor for any stage of processing, such processor shall be responsible for ensuring that the subcontractor accounts for all quantities of onions received and processed or otherwise disposed of, and that the subcontractor reports to the committee in the same manner and frequently as the processor.

(5) Cull onions transported in bags shall be transported in unlabelled bags, or shall have labelled bags reversed so that the label is not visible.

(h) *Definitions.* *U.S. onion standards* means the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195–51.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 51.2830–51.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term *U.S. No. 1* shall have the same meaning as set forth in these standards. *Processing* means cooking or freezing the onions in such a way, or with such other food components, that the consistency of the product is changed. Canning and freezing shall be considered forms of processing. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

[47 FR 8552, Mar. 1, 1982, as amended at 49 FR 4932, Feb. 9, 1984; 52 FR 19281, May 22, 1987; 52 FR 20192, May 29, 1987; 54 FR 8520, Mar. 1, 1989; 55 FR 7690, Mar. 5, 1990; 57 FR 28592, June 26, 1992; 59 FR 13431, Mar. 22, 1994; 59 FR 17267, Apr. 12, 1994; 60 FR 40748, Aug. 10, 1995; 61 FR 24878, May 17, 1996; 62 FR 19668, Apr. 23, 1997; 62 FR 38204, July 17, 1997]

EDITORIAL NOTE: After January 1, 1979 "Budget of Expenses and Rate of Assessment" regulations (e.g., sections .200 through .299) and "Handling" regulations (e.g., sections .300 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the "List of CFR Sections Affected" in the Finding Aids section of this volume.